

EPILEPSY IN ITS RELATION TO CRIME.*

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The older definitions of epilepsy state it to be a "disease characterized by tonic and clonic convulsions and followed by loss of consciousness;" but later conceptions of it show that convulsive movements need not be present, and that consciousness need not be entirely lost.

Without attempting to formulate a definition at once applicable in all cases of so protean a malady, we can construct a better one than the above, and say that epilepsy is a nervous disorder, characterized by some impairment or loss of consciousness, co-incident with some impairment or loss of the power of motor coördination, with or without convulsions, the paroxysms being generally abrupt in appearance and short and variable in duration.

This description recognizes variations and degrees in its two most constant and prominent manifestations; one, the impairment or loss of consciousness, which is either present to some extent or is complete in every epileptic convulsion, and which is by far the more important of the two; the other, the impairment or loss of motor coördination, which may not be present enough to be appreciated, and which need concern us but little at this time.

When we see a convulsion of the grand mal type; hear the agonizing epileptic cry; see the victim fall prostrate to the earth; witness the powerful agitation of the muscular system of the entire body; see the bloody froth about the mouth, the lacerated tongue, the deeply congested face, the upturned eyes,

*Read before the Rochester Academy of Medicine, April 2, 1902.

and later the labored breathing and prolonged coma that nearly always follow; we have seen but one-half the picture, and seeing only that, we are apt to regard epilepsy as a disease that affects the physical to the exclusion of the psychical side—and as a thing of the mind entirely apart—while, as a matter of fact, insanity in all forms scarcely offers a broader field for studying abnormal states of mind than does epilepsy in its sundry and diversified types.

The forms of alienation due to epilepsy, however, are often subtle and inconstant in the extreme, and exceedingly difficult of study and classification.

The effects of epilepsy on the mind are temporary, prolonged, or permanent; temporary including transitory states of psychic disturbance that come with the convulsion, that are inseparable from it because they are essentially a part of it, and that disappear with it; prolonged, including forms of psychic disturbance that precede or follow the convulsion, or that coëxist with it; while permanent forms combine all these and include all kinds of fixed insanity occurring in the epileptic independent of his convulsive periods.

The continuously insane epileptic is not usually liable to commit crime, his lunacy being well enough marked to secure his restraint in an institution for the insane. He has passed out of the less constant state of scientific insanity into that necessary for the disease in the eyes of the law.

Such epileptics mostly have some form or degree of dementia; the factors determining the latter being the duration of the epilepsy; its type, frequency and severity, and the original stamina of the individual.

Severe grand mal attacks, that occur daily, or oftener, that always involve the "organs of the mind," and that begin early in life in a subject already weakened by inherited tendencies, may produce complete epileptic dementia in two or three years; while in other cases in which the attacks occur just as frequently and are just as severe, but in which they do not primarily affect the "organs of the mind," and occur in persons of a better stamina, marked mental enfeeblement may be postponed for years, some cases even going through a long life and having a fair degree of intelligence in the end.

It is difficult to estimate the number of epileptics who become permanently insane in a legal sense, that is, who are continuously unable to distinguish between right and wrong, but I should place it at not less than 15 per cent. to 20 per cent.; and it is worthy of note that the epileptic who becomes permanently insane does not lose his epileptic identity; he continues to have convulsions, and it is the rule for his insanity to become more marked just before his seizures, his irascibility and tendency to violence increasing sharply at such times, invariably to decline with the passing of these periods.

The condition of dementia is characterized by inaction, mental and physical, nearly all faculties appearing to be suspended or destroyed; and, while it is true that permanently insane epileptics are generally harmless, because they are apt to be under proper restraint, it sometimes happens that they are kept at home too long, those about them being misled by a false sense of security, until the cycle of morbid inaction has run its course and there breaks forth, like a thunder clap from a clear sky, an outburst of great violence, full of danger to the patient and to all about him.

While in this condition they are prone to commit unpremeditated overt acts or crimes; and, if such a thing were possible, we ought to hold them to be twice removed from any degree of responsibility, for they made absolutely no use of any of the faculties of the mind in planning the deed and were powerless to stay the act of a hand robbed of its controlling force in the brain.

In this state the epileptic stands forth a curious anomaly under the law of irresponsibility, with consciousness subverted or destroyed, and motor coördination a disorganized force free from any law of control.

The epileptic subject to prolonged periods of mental disturbance, and not continuously insane, would be a less difficult medico-legal problem were his epilepsy only constant in type. But this is not the case, for radical changes in this respect are exceedingly common, and always possible in every case.

The same individual may have a classical grand mal seizure to-day, and a petit mal or psychic attack to-morrow. The con-

dition of irresponsibility that always attends a grand mal seizure is self-evident and distinct. So long as the fit lasts there can be no conscious action on the part of the mind. The main thing to determine is when the fit ceases, and in many cases it does not do so with the passing of the convulsion and subsequent coma, for there frequently follows a subconscious state lasting from a few minutes up to several days, or even weeks, during which the patient is wholly automatic. He becomes a mere machine. He is fully able to go about as usual, to properly care for his person, take his meals, make his bed, dust and sweep his room, and do sundry other commonplace things it was his habit to do before the attack; and yet be all the while absolutely ignorant of what he is about. His mind is a blank, while his bodily actions go uninterruptedly on; and should that man commit a crime while in such a state, he ought no more be held responsible for it than a railway engine would be for killing a person while it was running away without a driver in its cab. A person in such a state could have no criminal intent.

This same curious and interesting phenomenon of automatism may appear independent of attacks that disturb motor coördination, when it is called "psychical epilepsy," or the "psychical epileptic equivalent," meaning by the former a seizure that affects only the mind, causing a blank of variable duration in its operation, and by the latter, a frenzied state of great mental excitement that may last for several days, or subside in an hour or so, and which is not accompanied by convulsions of any sort.

Clinically the psychical epileptic equivalent is much like acute periodic insanity, the only difference being that it occurs in persons subject to epilepsy and is credited with taking the place of a regular epileptic seizure.

It is customary to plead "temporary insanity" in criminal cases in persons who do not have epilepsy, and in which the period of homicidal madness lasted only long enough to cover the commission of the act.

The duration of mental disturbance in psychical epileptic equivalent states is longer, lasting from a few minutes up to several days or weeks. They are never momentary, passing

with the plunge of the knife or the report of the pistol; at least such is my conviction at this time, for in a study of over 1,300 cases I have not seen one of this type that lasted so brief a space of time.

Established proof of the presence of the psychical epileptic equivalent ought to settle the absence of responsibility beyond reasonable doubt.

The greatest medico-legal problem connected with epilepsy is encountered in its purely psychical forms—those uncomplicated by any motor disturbance; that make no rude sign of their approach; that sometimes last for hours, or days, or even weeks, and finally pass away as silent as they came.

A. B. I., a man of 39, a patient at the Colony since 1897, illustrates this type of the disease very clearly. On being asked "Do you sometimes have thoughts come into your mind very suddenly that tell you to do something you know to be wrong?" he answered, "No, sir; I'll tell you what I think answers the same purpose to which you refer. The nearest that I can come to it and the most marked one that I ever noticed was just like this. I was at work in the morning on one end of a row of corn and I got three rows or more set up. I looked at my watch and it was half past seven. All of a sudden I felt a queer sensation, then I said, 'There, you have got to look out or you won't know what you are doing in a minute.' That is the last I knew until I came to myself and I was clear across the corn patch (fully $\frac{1}{4}$ of a mile away), and had three rows of stalks set up. During all that time I wasn't conscious at all, and I wouldn't have known anything about it only I was over there alone, and the work was done." This particular seizure was witnessed by an attendant, who reported it at the time.

M. S., a woman of forty, sat in my office addressing envelopes from a printed list, and addressed six exactly alike, showing much embarrassment when she came to realize what she had done. I happened to glance at her at the time and there was nothing to indicate the presence of a seizure save a slight pallor of the face and a staring expression of the eyes.

P. DeM., another patient, whose duty for several months it has been to sweep and clean certain rooms at 7:30 A.M. ev-

ery day, will have a seizure in the afternoon, or evening, pull out his watch and say, "Well, its half past seven and I must get to work," suiting his action to the words by getting his broom from the closet and going about his customary task in the usual manner, only to "wake up" a little later and appear chagrined at what he has done.

It is never safe to oppose an epileptic while he is automatic, as he is apt to become combative and dangerous.

L. L., a former patient at the Colony, had a petit mal seizure in an elevated railroad train in New York. By the time the guard reached him he seemed to be all right, but when the time came for him to leave the car some minutes later, he made no move to go. The guard took him by the arm to pull him towards the door, when the patient struck at him violently and a rough and tumble fight followed. An officer was called and locked the patient up. When he finally came to his senses he was greatly mortified at being in jail, and on showing his card of epileptic seizures, was permitted to go. He was unconscious when he struck the guard; had no intent whatever to do wrong, and was entirely blameless.

W. D. M. entered the Colony at the age of thirty-eight, having been an epileptic two years only. He was a man of remarkable talent; a graduate of Hamilton College and an honor man in his class; but who for ten years prior to the beginning of his epilepsy dissipated greatly in every way. He suffered from marked port-convulsive automatism, the condition often lasting several days.

If let alone, he would pass through this period all right, all the while performing with much accuracy his daily work of making beds, sweeping floors, cleaning lavatories and polishing brasses.

Once while in an automatic state, he was accidentally struck by another patient who was having a seizure, and he proceeded to beat the man most severely. On regaining consciousness some hours later, he had no knowledge whatever of the assault and was greatly disturbed over what he had done.

One of the most interesting cases of reputed epileptic automatism that has come under my notice is that of R. F. H., a

man of forty, an epileptic eighteen years, and who entered the Colony early in December, 1901.

His family history is not good, and the patient himself drank and smoked to excess until a year after his epilepsy developed, which was at the age of twenty-one. He is a man of intelligence and was profitably employed as a commercial traveler.

It has been his habit for years to keep a diary, noting therein his epileptic seizures with a certain Greek sign, to conceal the identity of his trouble as far as possible.

He left Rochester September 26, 1901, for a prolonged Western trip, and his diary faithfully records the activities of each day up to December 14th following, when he entered the Colony. The notes in the diary are in detail, giving the names of the places visited; the railroads he traveled over to reach them; the hours of arrival and departure; the names of the firms he called on; the result of these calls; together with frequent notes to show how he felt, how many letters he wrote, and many other things of a personal nature. We will omit these diary notes between September 26 and November 15, and give them from that time on as copied from his diary by the patient himself:

Nov. 15. Little business today. Went to Kalamazoo in afternoon. Wrote two letters. Serious epileptic collapse on the street this morning; at Elkhart.

Nov. 16. Saw Kalamazoo trade. Slight touch epilepsy in evening. Wrote three letters.

Nov. 17. Sunday. Spent the day indoors, writing and figuring. Wrote three letters. Epileptic attack, after a smoke this afternoon.

Nov. 18. Visited trade in Battle Creek, Marshall and Albion. Wrote three letters.

Nov. 19. Did the Jackson and Hillsdale trade today. Not much business. Had attacks of epilepsy both forenoon and afternoon.

Nov. 20. Visited Angola and Auburn. Slept at Columbia City. Wrote one letter. Had epileptic attacks both forenoon and afternoon today.

Nov. 21. Columbia City and Fort Wayne both attended today. Toledo by night. One slight epileptic attack today. Wrote four letters.

Nov. 22. Spent the day in Toledo. Up to Detroit on evening train. Received my long-looked-for "medicine quantity" letter at last. Wrote four letters.

Nov. 23. All day in Detroit. Did little business. Troubled with chills and fever. Took strong dose of quinine at bedtime, also some whiskey.

Nov. 24. Spent all day on correspondence and literature, in hotel. Wrote four letters.

Nov. 25. My diary says: total epileptic collapse.

Nov. 26. My diary says I was at Pontiac, also Detroit, but further than this I know nothing, and have no recollection whatever regarding the day.

Nov. 27. My diary says I got up at 8.30 by my watch, i.e., railroad time. Utterly worn out. No memory left. Saw a doctor. Am to be sent home tonight on M. C. R. R. No. 3 lower berth on sleeper. Night messages sent to my home doctor, my firm and my landlord. (I remember none of this.)

Nov. 28. My diary says: Breakfast on train. It also records \$30.00 turned over to my employer. (I have no personal recollection of these items.)

Nov. 29, 30 and Dec. 1. At hospital. (No record or recollection of this.) Dec. 2. My diary says: Up and dressed after dinner. My employer called. I am weak but mentally clear today. No recollection hardly.

Dec. 3. My diary says: Up at 9 a.m. No further record.

Dec. 4. My diary says: Up at 9 a.m. Dressed fully. (From this I infer that I only used my dressing gown on the other two days.) My employer called with the Craig Colony papers, which the doctor signed later.

Dec. 5. Up for breakfast. Back to bed. Up again 10 a.m. Wrote a letter. Had an epileptic attack at 7 P.M. Chewed a thermometer when being put in my mouth to take temperature. (I have a sort of hazy recollection of this—spitting out cut glass, etc., but nothing definite.)

Dec. 6. Up and dressed for breakfast. Paid \$1.25 for thermometer. Today's visitors were W. H., Mrs. H., and Dr. J. Wrote one letter.

Dec. 7. Up and dressed 7.30 a.m. Got shaved. Went outside and over home. Saw Mrs. H. Back to hospital for dinner. Van—called 8 p.m.

Dec. 8. Sunday. Three ladies, one man called on me today.

Dec. 9. Depressed. Wrote two letters. No further record in diary.

Dec. 10. Diary says: Epilepsy between 4 and 5 p.m. Chewing severe. Record of four letters written. (Beyond these facts diary does not throw any light, nor does memory recall the day at all.)

Dec. 11, 12 and 13. Back home again. (No recollection of these three days. Diary records two letters received and one written, but memory fails to recall them. And these were vitally important days, too, when I was making arrangements for my sojourn at Craig Colony, and trying, presumably, to straighten out my affairs a little before leaving. I discovered, on my return home for a week in February, that I had given away a number of personal effects to friends, and failure to recall this fact caused a few rather embarrassing blunders. For instance: I calmly arranged to have some furniture taken up to the Colony, which I had previously sold to my landlord.)

Dec. 14. My employer accompanies me to Sonyea. Diary makes note of the main facts, but my memory fails to respond when I try to recall them now.

Dec. 23. From the 14th till now—a week—my diary makes note of letters received and answered. Also states that on Tuesday, December 17, I was epileptic all day, and on the 18th there is also the sign of epilepsy, but as far as personal recollection goes, my memory is *nil*. I have a sort of "hazy," "dream-like" recollection of matters during that period, when I try to recall it by going to my correspondence and such like, but am unable to fix things at all definitely. (I have carbon-manifold copies of the letters, which show them to be perfectly normal and sensible, yet my memory fails to retain the incidents referred to in said letters.)

From December 23 till today—over two months—I have been in better health than for years past, and have had but three epileptic attacks. (None of them was serious, and each clearly traceable to exciting or depressing primary causes.)

The main feature noticeable in this somewhat disjointed description of my goings-on from September 26 till today, and which I desire to emphasize, is the practical loss of memory from November 25 till December 23. While my diary keeps a fair record of most of the time, and my mind recalls certain days and incidents dimly, I really seem to know nothing as to my existence during that period, and might as well have been in a comatose condition. Though my letters and comments seem perfectly lucid and rational, I have no recollection of most of the incidents there narrated.

It appears from the foregoing that he suffered a “serious epileptic collapse” on November 15th, and had other isolated attacks daily up to the 20th, when they ceased, only to reappear again in the form of “total epileptic collapse” on the 25th, from which time until December 23d, a period of twenty-eight days, he had a “practical loss of memory.”

It does not appear that unconsciousness during these twenty-eight days was absolute and complete; for the patient himself says, with every evidence of honesty and sincerity and without any motive for evasion, that while his mind could recall “certain days and incidents dimly,” he really seemed to “know nothing” of his existence during that period.

One of the most remarkable features of the case was the patient's seeming ability to write down certain incidents and impressions acquired while he was in a subconscious state, and yet have no knowledge of the fact later, only knowing that he had done so by seeing his own writing on the pages, or copies of letters he had kept.

Kran (*Psychiatric Wochenschrift*, July 7, 1900), reports the case of a male epileptic, twenty-two years of age, given to wandering impulses, during which he would attempt suicide or try to frighten people by flourishing a revolver in their faces, adding that “all his actions at such times were entirely unconscious, in a legal sense, and the patient had no recollection of their occurrence. The periods of amnesia varied considerably; the shortest duration was four days and the longest twenty-three days. The patient was not mentally sound between the attacks; he was always melancholic. During the wandering impulse he was not responsible for his actions, and therefore escaped punishment.”

P. DeM., mentioned above, while in this state will answer a question as to the time of day when he is looking at his watch and do it correctly, but he will have no recollection whatever of it afterwards.

Another patient, J. L., will imitate certain gestures made before him while he is automatic, and yet know nothing of it afterwards. If told to make the gestures without being shown how, he pays no attention to the command.

In the *Journal of Mental Science* for January, 1900, White, of the City of London Asylum, in writing on epilepsy associated with insanity says, "The automatic actions of these patients after fits are remarkable. Whatever their erratic behavior may be, they remember nothing of it when they come to themselves. I am one of those who are of opinion that chronic epileptics should be deemed irresponsible for homicidal acts, having seen many cases of epilepsy marked by brutal violence associated with an absolute mental blank as to all that had occurred."

P. P., a young man of twenty-four, a native of Greece, was indicted and recently tried for murder in the first degree in this city for shooting to death his partner in business. Competent testimony was adduced to show that the defendant and the man he killed had been the best of friends for years; that there was absolutely no motive for the crime; and that the defendant not only came from an epileptic family, but was himself a victim of the disease.

On its face, the murder bore every evidence of a cold-blooded crime. In the presence of witnesses the two men quarreled while trying to adjust an account. Angry words passed between them and ugly insinuations, derogatory to the fiancée of the defendant, were made, when he suddenly drew a revolver and fired five shots, point blank, at his partner as fast as a self-acting revolver would work, three of them taking effect and causing death.

Witnesses testified that the defendant then threw his revolver on the floor and made no effort to escape; and it was also testified that he was heard shortly afterwards to say, "It's too bad; it's too bad!" The shooting occurred about quarter past twelve in the afternoon and the defendant was at once lodged

in jail. Other witnesses testified that after the defendant was in jail and when asked what he was doing there, replied, "I shot George."

In his own testimony on the stand the defendant declared that his mind was a blank from the time of the quarrel in the store until he came to his senses in the jail about two and a quarter hours later, and that he knew absolutely nothing of what transpired in that time.

The murder was committed in April, 1901, and the trial held in February, 1902. In the meantime, two certificates—one from a physician, the other from a priest—were secured from Greece, to the effect that the defendant's father was an epileptic; that he often had "nervous sickness" and would fall down almost daily, and that he had been so afflicted for many years.

I was asked to examine the man and give testimony in the case, and repeated examinations made while he was in jail revealed, among other things, the following:

He was born in Greece and came to America nine or ten years ago. Speaks English quite perfectly; seems to understand readily; answers questions in a simple and straightforward way. Age 24; height 5 feet, 2½ inches; weight 134 pounds. Present occupation, flower merchant. Mother died in childbirth; father living and subject to epilepsy; grand-parents lived to old age, father's mother dying of epilepsy. Has one sister who is living and well. No history of insanity, intemperance, or excesses of any kind in any of his ancestors obtainable, save it is stated that his father becomes mentally disturbed at times as the result of his epilepsy.

Temperature 98.5; pulse 88; respiration 20. Physiognomy: complexion clear and smooth; nutrition good; expression calm and benign; speech clear and distinct, except English not perfect. No anatomical stigmata about the face, cranium, teeth, palate, ears, or limbs. Some anomaly of skin in the way of dense hairy growth over the shoulders, chest and arms. No physiological stigmata in the way of tremors, tics, or nystagmus; nor is there any evidence of mental stigmata of any kind. He does not appear to be erratic in any way, emotional or egotistical. All superficial reflexes, including the plantar, cremas-

teric, abdominal, epigastric and scapular, respond naturally. Of the deep reflexes, that of the left patella is somewhat exaggerated, those of the wrist and elbow being normal. The left pupil responds more slowly to light than the right. There is no ankle-clonus and no impairment of tactile sensation in any part of the body. Vision and taste normal; hearing defective, especially on right side. Measurements of limbs show nothing anomalous. Power of grip coequal, but low in both hands.

I was constantly impressed with the man's evident honesty and sincerity, and his expressions of regret for the crime appeared to be genuine.

He stated that the first epileptic seizure he had that he remembered occurred when he was eight, at which time his father told him of a former attack that occurred when he was six. On one occasion he fell from a single story window while in a fit, cutting his head in four places, three small star-shaped scars now appearing on the forehead a little to the left of the center, and a fourth one in the edge of the hair above the left temple. He described an attack that occurred in Middletown, Conn., in '95, when he fell downstairs, and others that he had in jail after the murder, the first occurring three weeks after the event. The jailer testified that he saw him three different times in attacks of some sort, and, from what I could learn of them from the jailer, it was my belief that the attacks were epileptic.

The defendant testified on the stand that the last thing he remembered in the store—where the shooting was done—was a feeling as though "a wave of cold air was creeping from his feet upward," then his eyes "got dull and flew about," he saw "yellow, red and green," after which he remembered nothing. He also declared he had the same sensation on the occasion of the attack in Middletown in '95.

The question arose as to the mental state the patient was in when he fired the shots; and I stated it as my belief that if the patient experienced the initial symptoms of an epileptic convulsion, such as he described as being present at the time, he was in an automatic or subconscious state when he committed the deed and could not, therefore, be held responsible.

The word "aura" signifies "breath," and it is defined as a "sensation like a gentle current of air rising from the limbs or body to the head, a frequent forerunner of an epileptic attack;" while the visual aura, in the form of a play of colors before the eyes, is as common as all the other special sense auras combined. The defendant described the presence of these auras in a manner to credit belief in the truth and sincerity of his statements.

The question also arose as to whether a person in a complete state of epileptic automatism could receive a mental impression that he could retain and carry into the conscious state beyond, and I gave it as my opinion that such a thing would not be possible.

Then came the question, "How could the defendant realize he had done something wrong and seem to regret it (as it was claimed this man did, when he said shortly after the shooting, 'It's too bad; it's too bad'), if he was in an automatic state at the time?" and our contention was that even though the defendant might have dimly realized at the time that he had done wrong, it was no evidence of the possession of his mental faculties, for while in such a state a person may be spoken to and will correctly respond, yet retain no knowledge of it when the subconscious state is gone.

It is, perhaps, no more impossible to speak automatically while in such a state than it is to act so.

After prolonged deliberation, the jury returned a verdict of manslaughter in the second degree, the maximum penalty for which is fifteen years' imprisonment, five and one-half being liable to deduction for good behavior.

If this man was an epileptic and was under the influence of a seizure at the time he committed the deed, it does not seem that he should have been convicted. But in such cases we encounter a somewhat anomalous situation, for while the law recognizes the absence of responsibility in insanity, it fails to do so in epilepsy; and if this man had been found insane, he could have been committed to a proper institution, but being an epileptic, he must either be found guilty and made to suffer for his act, or be acquitted and allowed to go free.

If he was not responsible, it is clear that he ought not to have been convicted; if an epileptic and dangerous, it is equally as clear that he ought not to be at large for he may again do a deed of violence at any time.

Had his defense been insanity, the verdict, in all probability, would have been "guilty, but insane;" and had my connection with the case occurred before the line of defense was established, I would have advised such a course, for it is my firm conviction that epilepsy and insanity are often interchangeable terms and that they may sometimes be so when it is beyond human power to affirm or deny the fact; which, being true, it would seem that, given the knowledge of the existence of epilepsy, the epileptic under trial for crime ought always to have the benefit of a reasonable doubt.

In the *Journal of Mental Science* for July, 1901, Percy Smith, Physician for Mental Disorders at the Charing Cross Hospital, reports the case of a man who murdered his wife and child during the night and who was found at noon the next day sitting on a chair in the middle of the room in which the bodies lay, with his night clothing still on, his eyes closed, his head bent forward, and his hands loosely in front of him. An empty vial which had contained chloroform and oil of cloves was found on the washstand, and there was a smell of the latter drug. There were bloodmarks on the prisoner's clothing and on his arm.

He seemed unconscious, made no reply when spoken to, shouted at or shaken, nor any resistance when he was laid on the floor that he might be dressed to be taken to the police station.

On arrival at the police station at 3:15 P.M., further attempts were made to arouse him, and with the idea that possibly he had taken some poison, a stomach pump was passed, but the fluid that was drawn off merely contained clear gastric juice and did not smell of either chloroform or oil of cloves. At the same time he is reported to have said: "I have been roughly treated; which of my children is dead?" Two hours later he was examined again and appeared to be thoroughly conscious of the position he was in and to be sane, but said he was entire-

ly unconscious of anything that had happened between the time he last applied the chloroform and oil of cloves after going to bed, in order to relieve severe neuralgia, and the time when he became conscious at the police station after the stomach pump had been passed.

He burst into tears and used many expressions of endearment in regard to his wife and child, adding, "We never quarreled in our lives. How could I have done it? I suffer very much from my head, especially at night."

He was fifty years of age, and had entered the army in '70, serving for many years in Egyptian campaigns and was known during that time to suffer from "petit mal de soleil" and "fainting spells." As a soldier his conduct was exemplary and he rose to the highest rank obtainable by a non-commissioned officer.

It was also reported that he had a sunstroke shortly after entering the army, that rendered him unconscious from noon one day until the following morning, and that he became subject to "fits" soon after that.

The physicians called to examine him endeavored to establish his irresponsibility on account of epilepsy.

In his charge to the jury the judge did not refer to the rules in the McNaughton case, nor mention the question of "right and wrong," "a knowledge of the nature and quality of the acts committed," but stated that the question the jury had to consider, practically the only question, was whether the deed was committed under circumstances which would absolve the prisoner from the full consequences of the crime; adding that when the jury was considering the history of the prisoner they could not shut their eyes to the history of the other members of the family.

The jury returned a verdict of "guilty, but insane," and the prisoner was ordered to be detained during the pleasure of the Government.

Aside from the epileptic's inability to distinguish between right and wrong when under the influence of a seizure, we ought to remember that inhibition in most cases is also impaired or destroyed; a fact that seems to escape consideration in establishing responsibility in epilepsy in this country.

It was recognized in 1887, or '88, by Judge J. M. Somerville, of the Supreme Court of Alabama, in a case in which he gave a decision that repudiated in effect the test for insanity stated in the celebrated *McNaughton* case in England (which was the ability to distinguish between the right and wrong of the act in question), and held that the true test of responsibility in cases of insanity is the power to refrain from doing the act; in other words, whether the alleged evil doer acted under duress of disease which may have impaired or destroyed his powers of inhibition.

The application of a similar test in establishing responsibility in epilepsy would seem especially fitting and just.